

**STATEMENT OF JOHN HANKS, DIRECTOR,
NATURAL RESOURCES DEPARTMENT, PENOBSCOT NATION**
Public Hearing Before the Environmental Protection Agency
Re: State of Maine Program Submission for Authorization
to Administer the National Pollutant Discharge Elimination System
February 16, 2000 Augusta, Maine

GOOD EVENING, MY NAME IS JOHN BANKS, I AM HERE ON BEHALF OF THE PENOBSCOT NATION AS THE DIRECTOR OF THE PENOBSCOT NATION DEPARTMENT OF NATURAL RESOURCES.

THIS PROCEEDING RAISES MATTERS FOR THE PENOBSCOT NATION THAT GO TO THE CORE OF ITS VERY EXISTENCE: THE HEALTH OF THE PENOBSCOT RIVER AND ITS RESOURCES. OUR TRIBE HAS OCCUPIED THE PENOBSCOT RIVER WATERSHED FROM TIME IMMEMORIAL. OUR NAME IS THE NAME OF THE RIVER. OUR CREATION STORIES TELL HOW WE CAME FROM THIS RIVER. WE DEPEND UPON IT FOR OUR PHYSICAL, CULTURAL, AND SPIRITUAL SURVIVAL.

UNDER THE MAINE INDIAN CLAIMS SETTLEMENT ACT OF 1980, CONGRESS CONFIRMED THAT OUR RESERVATION ENCOMPASSES THE PENOBSCOT RIVER FROM INDIAN ISLAND, NORTHWARD. THIS INCLUDES OUR ABORIGINAL RIGHT TO TAKE FISH FOR OUR SUSTENANCE.

BUT OUR RESERVATION HAS BEEN POISONED BY POLLUTION. THE RIVER AND ITS RESOURCES HAVE BEEN CONTAMINATED BY DIOXIN AND OTHER HAZARDOUS MATERIALS FROM POLLUTION DISCHARGES INTO THE RIVER, PRIMARILY BY PAPER COMPANIES. OUR HOME HAS BEEN A DUMPING GROUND FOR POLLUTION BY OTHERS WITHOUT OUR PERMISSION IN VIOLATION OF OUR TREATY RIGHTS. I DO NOT HAVE THE WORDS TO EXPLAIN HOW MUCH THIS HARMS THE RIVER, THE FISH, AND OUR PEOPLE.

THE STATE OF MAINE HAS APPLIED TO THE UNITED STATES FOR AUTHORITY TO CONTROL THE PERMITTING OF POLLUTION DISCHARGES INTO OUR RESERVATION. LET ME STATE THAT IN A DIFFERENT WAY: THE STATE OF MAINE WANTS THE UNITED STATES TO GIVE IT CONTROL OVER THE GRANTING OF PERMISSION FOR OUTSIDERS TO POLLUTE OUR WATERS.

(continued)

THIS IS NOT SOMETHING THAT MAINE HAS THE RIGHT TO CONTROL. OUR RESERVATION AND ITS RESOURCES ARE OF UNIQUE INTEREST TO OUR TRIBE AS A SEPARATE SOVEREIGN. THIS WAS TRUE LONG BEFORE EUROPEANS ARRIVED ON THE COAST, AND IT REMAINS TRUE, THROUGH THE PROMISE OF THE SETTLEMENT ACT, TODAY. INDEED, THE UNITED STATES HAS A FIDUCIARY OBLIGATION (OF THE HIGHEST ORDER) TO PRESERVE AND PROTECT OUR RESERVATION AND OUR UNIQUE INTERESTS IN THE RIVER. THAT IS NOT SOMETHING THAT THE STATE CAN EVER HAVE OR CONTROL.

UNFORTUNATELY, OUR HISTORY WITH THE STATE OF MAINE, LIKE THAT OF MANY TRIBES, IN RELATION TO STATES, HAS BEEN ONE OF HOSTILITY. THE STATE OF MAINE FOR MANY YEARS SOUGHT TO DESTROY OUR IDENTITY AS A UNIQUE, SOVEREIGN PEOPLE. BUT IT FAILED IN THAT ENDEAVOR WHEN THE UNITED STATES RECOGNIZED US. FEDERAL RECOGNITION RESTORED OUR INHERENT SOVEREIGNTY AS IT EXISTED FROM TIME IMMEMORIAL. WITH THAT CAME FEDERAL PROTECTION OF OUR RESERVATION AND OUR PEOPLE AGAINST DESTRUCTION BY THE STATE. WITH THAT CAME FEDERAL PROTECTION OF OUR RIGHT TO HAVE A HEALTHY RESERVATION.

THE PURPOSE OF THE CLEAN WATER ACT IS TO "RESTORE AND MAINTAIN THE CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF THE NATION'S WATERS." CONGRESS DECLARES THAT THE DISCHARGE OF POLLUTANTS INTO THE NATION'S RIVERS MUST BE ELIMINATED AND THAT WATER QUALITY MUST PROTECT FISH (AND WILDLIFE) AND THEIR PROPAGATION.

THE MANDATE OF THE CLEAN WATER ACT IS NOT MET IN THE PENOBSCOT INDIAN RESERVATION. BUT THE PENOBSCOT NATION IS WORKING HARD TO HAVE THAT MANDATE MET. THE SKILLED STAFF OF OUR NATURAL RESOURCES DEPARTMENT WORKS EVERY DAY TO MONITOR AND IMPROVE THE HEALTH OF THE RIVER.

WE DO NOT KNOW WHY THE STATE RESISTS OUR RIGHT TO CONTROL THE CLEANLINESS OF OUR HOME. WE ARE BAFFLED BY THE STATE'S REFUSAL TO EVEN SIT DOWN WITH US TO DISCUSS A JOINT APPROACH TO MEETING THE GOALS OF THE CLEAN WATER ACT, AS RECOMMENDED BY YOUR AGENCY.

(continued)

OUR SENSE IS THAT THE STATE FEARS OUR RIGHT TO PROTECT OUR UNIQUE INTERESTS IN THE RIVER BECAUSE THAT COULD INTERFERE WITH CONTINUED POLLUTION BY THE PAPER COMPANIES.

OUR GOAL IS NOT TO FIGHT ABOUT CONTROL OF THE RIVER, BUT TO PROTECT THE HEALTH OF THE RIVER. NEVERTHELESS, THE PHYSICAL, CULTURAL, AND SPIRITUAL HEALTH OF OUR PEOPLE DEPEND UPON A CLEAN RIVER THAT SERVES THE UNIQUE INTERESTS OF OUR PEOPLE AND OUR RESERVATION. THE STATE OF MAINE HAS NO RIGHT TO CONTROL THOSE INTERESTS TO OUR EXCLUSION, AND THIS AGENCY WILL VIOLATE THE PROMISE OF THE SETTLEMENT ACT AND ITS TRUST OBLIGATION TO OUR TRIBE, IF IT GIVES THE STATE SUCH CONTROL.

ALTHOUGH WE FEAR THAT THE LEGAL AND FACTUAL MATTERS AT ISSUE IN THIS PROCEEDING ARE NOT SUITABLE FOR RESOLUTION BY MERELY "PUBLIC COMMENT" FROM OUR TRIBE, I THANK YOU FOR THE OPPORTUNITY SPEAK THIS EVENING.

THE PENOBSCOT NATION WILL SUBMIT FURTHER WRITTEN COMMENTS IN THE NEAR FUTURE.

JOHN BANKS
DIRECTOR, PENOBSCOT NATION
NATURAL RESOURCES DEPARTMENT